

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

**ACADIAN CYPRESS & HARDWOODS,  
INC. D/B/A ACADIAN HARDWOODS,**

**Plaintiffs,**

**VS.**

**PENNSYLVANIA LUMBERMENS  
MUTUAL INSURANCE COMPANY,  
ENGLE MARTIN & ASSOCIATES, LLC  
AND THOMAS KORALEWSKI,**

§ § § § § § § §

**CAUSE NO. 1:19-CV-247**

## Defendants.

**DEFENDANTS' PENNSYLVANIA LUMBERMENS MUTUAL INSURANCE  
COMPANY AND ENGLE MARTIN & ASSOCIATES, LLC'S NOTICE OF REMOVAL**

COMES NOW Defendants, PENNSYLVANIA LUMBERMENS MUTUAL INSURANCE COMPANY and ENGLE MARTIN & ASSOCIATES, LLC's (hereinafter collectively "Lumbermens"), and files this Notice of Removal under Fed. R. Civ. P. 81(c) and pursuant to 28 U.S.C. 1446(b)(3) of Cause No. A190154-C; *Acadian Cypress & Hardwoods, Inc. d/b/a Acadian Hardwoods v. Pennsylvania Lumbermens Mutual Insurance Company, et al*;

In the 128<sup>th</sup> Judicial District Court of Harris County, Texas to the United States District Court for the Eastern District of Texas, Beaumont Division and would show this Court as follows:

### A. Procedural Background

1. Plaintiff filed this case as Cause No. Cause No. A190154-C; *Acadian Cypress & Hardwoods, Inc. d/b/a Acadian Hardwoods v. Pennsylvania Lumbermens Mutual Insurance Company, et al*; In the 128<sup>th</sup> Judicial District Court of Orange County, Texas on April 25, 2019. (See Exhibit “A”).

2. Lumbermens was served with Citation and the Original Petition May 10, 2019. (See Exhibit “B”). Engle Martin was served with Citation and the Original Petition May 14, 2019. (See Exhibit “C”). Lumbermens files this Notice of Removal within the 30-day time period required by 28 U.S.C. §1446(b).

3. A copy of the pleadings filed in the District Court, excluding the Original Petition, are attached hereto as Exhibit “D”.

4. Venue is proper in the Eastern District of Texas, Beaumont Division as this division and district embrace the venue of the state court action.

5. Lumbermens will promptly file a copy of this Notice of Removal with the clerk of the county court in which this action has been pending.

**B. Nature of the Suit**

6. This is a suit based upon a policy of insurance. Plaintiff claims that its business premises sustained damage as a result of Hurricane Harvey and Lumbermens and its agents failed to comply with the policy of insurance issued to Plaintiff with respect to the claim as a result of the weather event.

**C. Basis for Removal**

7. Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. §1332(a). Plaintiff is a corporation duly organized and existing under the laws of the State of Texas with its principle place of business in Orange County, Texas. Pennsylvania Lumbermens Mutual Insurance Company is a foreign corporation organized and existing under the laws of the state of Pennsylvania with its principal place of business in Philadelphia County, Pennsylvania. Defendant Engle Martin & Associates, LLC is a single-member limited liability company organized and existing under the laws of the state of Georgia, with its principal place of

business being located in Atlanta, Fulton County, Georgia. Its sole owner and member is Cor Partners, Inc., a Missouri corporation. The amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs as Plaintiff alleges in paragraph 7 of its Original Petition that it seeks monetary relief in excess of \$1,000,000.00.

Lumbermens further states that the other defendants were improperly joined and Thomas Koralewski's residence should not be considered. As set forth in Plaintiff's Original Petition, this matter is governed by Article 542A et. seq. of the Texas Insurance Code. Section 542A.006 provides that if a carrier elects to accept liability of its agent, the court shall dismiss all claims against the agent with prejudice. Plaintiff does not dispute that Mr. Koralewski was acting as Lumbermen's agent with respect to the allegations against him and cannot contest that Lumbermens agreed to accept his liability. Mr. Koralewski has filed a Motion of Dismiss, which has not yet been heard. Accordingly, Mr. Koralewski is an improper party and there is complete diversity.

**D. Jury Demand**

8. Plaintiff has demanded a jury trial in the State Court action.

**E. Consent to Removal**

Defendant Thomas Koralewski, by and through his attorney of record, hereby consents to the removal.

**F. Conclusion and Prayer**

WHEREFORE PREMISES CONSIDERED, Defendants UNITED NATIONAL INSURANCE COMPANY and ENGLE MARTIN & ASSOCIATES, LLC give notice that Cause No. A190154-C; *Acadian Cypress & Hardwoods, Inc. d/b/a Acadian Hardwoods v.*

*Pennsylvania Lumbermens Mutual Insurance Company, et al*; In the 128<sup>th</sup> Judicial District Court of Orange County, Texas is hereby removed from said State Court to the United States District Court for the Southern District of Texas, Houston Division, and Defendant prays for such other and further relief to which it may show itself justly entitled.

Respectfully submitted,

**COOPER & SCULLY, P.C.**

By: /s/ Fred L. Shuchart  
FRED L. SHUCHART  
SBN 18316250  
815 Walker St., Suite 1040  
Houston Texas 77002  
(713) 236-6800 - Telephone  
(713) 236-6880 – Facsimile  
Email: fred@cooperscully.com  
**ATTORNEY FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to all known counsel of record as indicated below by certified mail, return receipt requested, facsimile and/or hand delivery on this 10<sup>th</sup> day of June, 2019.

Jeffery Raizner  
Andrew Slania  
Raizner Slania, LLP  
2402 Dunlevy Street  
Houston, Texas 77006

☐ via certified mail/return receipt requested  
☐ via regular mail  
☐ via facsimile – (713) 554-9098  
☐ via hand delivery  
☒ via ECF

/s/ Fred L. Shuchart  
FRED SHUCHART

